UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:11-cr-00190-MOC-DSC

UNITED STATES OF AMERICA,)	
)	
)	
)	
Vs.)	ORDER
)	
KIMBERLY MORRIS,)	
)	
Defendant.)	

THIS MATTER is before the court on defendant's pro se letter dated June 18, 2013, which the court earlier interpreted to be a potential post-judgment Motion to Vacate, Alter or Amend Judgment. In accordance with <u>Castro v. United States</u>, 540 U.S. 375 (2003), defendant was advised that the court intended to re-characterize this motion as an attempt to file a motion under Section 2255. In her timely responsive Letter (#169), defendant states that she now wishes to withdraw her original letter and "dismiss the notion of filing a Rule 35(b), as well as recharacterizing the filing pursuant to Section 2255." <u>Id.</u> at 1. The court determines that this is a Rule 41(a) voluntary dismissal of her motion and any potential Section 2255 claim without prejudice.

ORDER

IT IS, THEREFORE, ORDERED that based upon defendant's voluntary dismissal without prejudice, defendant's pro se letter dated June 18, 2013, is **WITHDRAWN**, and the converted motion to vacate (#165) is **TERMINATED** without prejudice.

Signed: July 22, 2013

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United States District Judge